

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re) Case No: 02-31521 TC
ALEXIS MAGER LAKUSTA,)
Debtor.) Chapter 7
ALEXIS MAGER LAKUSTA,)
Plaintiff,) Adv. Proc. No. 03-3549 TC
vs.) Date: July 22, 2005
MARK H. EVANS,) Time: 9:30 a.m.
Defendant.) Ctrm: Hon. Thomas E. Carlson
San Francisco, CA

**MEMORANDUM RE PLAINTIFF'S MOTION FOR
AMENDMENT OF JUDGMENT UNDER RULE 60(b)**

Plaintiff Alexis Lakusta filed and set for hearing a motion seeking reconsideration of this court's June 8, 2005 judgment in the above-entitled action.

Plaintiff asserts that this court erred in determining that the present lawsuit was barred under a prior settlement agreement, because that settlement agreement was intended to resolve a prior

1 lawsuit, not the present lawsuit. This argument is unpersuasive
2 because the settlement agreement, which arose out of the same
3 transaction at issue in the present lawsuit, contained a release of
4 all known and unknown claims.

5 Plaintiff also asserts that the form of judgment submitted by
6 Defendant's counsel and later entered by the court was not properly
7 served upon Plaintiff and his counsel. This argument is
8 unpersuasive. The proposed form of judgment was served on
9 Plaintiff's counsel, and the judgment entered properly reflects the
10 court's decision.

11 The other grounds for relief raised in Plaintiff's motion do
12 not represent newly discovered evidence that could not have been
13 presented at the original trial, fraud upon the court, or any other
14 ground for relief from judgment recognized in Rule 60(b).

15 The court need not address whether Plaintiff has standing to
16 bring this motion without joinder by the chapter 7 trustee.

17 Oral argument could not cure the deficiencies in the motion,
18 would not be helpful to the court, and would only increase the cost
19 of these proceedings.

20 ****END OF MEMORANDUM****

Court Service List

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